(109)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.No. 2296/2000

CORAM: Hon'ble Shri **S.R.Nayak**, Chief Justice &
Hon'ble Shri **D.R.Deshmukh**, J.

PETITIONERS : 1. Rambabu Sharma, aged about 25 years, son of Shri Ram Sihasan Sharma, r/o B-307 Ashok Enclave, Bhopal, at present resident of Dhamtari (MP)

: 2. Rajesh Kumar Dinkar, aged about 29 years, son of Shri Udanlal Dinkar, r/o Court Road, Budha Mahadeo Ward, Kawardha, at present r/o Dhamtari (MP).

: 3. Ku. Neeta Deshraj, aged about 26 years, daughter of Shri Mohanlal Deshraj, r/o village Bhatgaon, Moenabasti, Distt. Raipur, presently residing at Dhamtari (MP)

: 4. Shyam Kumar Tiwari, aged about 29 years, son of Shri Manoharlal Tiwari, r/o Purana Sarkanda Shivghat, Subhadrakunj, Koni Road, Bilaspur, at present residing at Dhamtari (MP)

Versus

RESPONDENTS: : 1. The State of Madhya Pradesh, Through the Secretary, Government of Madhya Pradesh, Home (Police) Department, Mantralaya, Vallabh Bhawan, Bhopal, (MP)

: 2. The Superintendent of Police, Dhamtari, Tahsil and District Dhamtari (MP)

: 3. Ku. Kaoshalya, aged about 21 years, daughter of Purshottam Das, by occupation Steno, Superintendent of Police Office, Dhamatari (MP)

: 4. Sharad Kumar Verma, aged about 28 years, son of Pooranlal Verma, Asstt. Sub Inspector, (M) Office of Superintendent of Police, Dhamtari (MP)

: 5. Ku. Laxmi Meravi, aged about 18 years, daughter of Shambhulal Meravi, posted in the office of Superintendent of Police, Dhamtari, Tahsil and District Dhamtari (MP).

: 6. The M.P.Administrative Tribunal, Bench at Raipur, Through its Registrar, Raipur (MP).

110

Shri Rajeev Shrivastava, learned counsel for the Petitioners.
Shri Yashwant Singh Thakur, learned G.A for the Respondents No.1 & 2..

ORAL ORDER
(Passed on 14.08.2006)

The following oral order of the Court was passed by **S. R. NAYAK, C.J.**

Initially the petitioner No.1 was appointed to the post of Stenographer and Petitioners No.2 to 4 to the post of Assistant Sub-Inspectors purely on *ad hoc* basis in the establishment of the Superintendent of Police, Dhamtari, the second respondent herein, vide order dated 6.2.99 with condition that their services are purely temporary and they could be terminated at any time, after giving them a month's notice or in lieu thereof by paying a month's salary. While the petitioners were serving as Stenographer and Assistant Sub-Inspectors, the second respondent passed separate orders on 19.5.99 terminating the services of the petitioners on the ground that their services were no longer required. Thereafterwards, the second respondent issued employment notification on 27.12.1999 calling for applications for the post of Stenographer as well as Assistant Sub-Inspectors. The petitioners No.2 to 4 and respondents No.3 to 5 and several others qualified to apply for those posts, applied for the posts. The second respondent issued call letters on 5.1.2000 for interview. It appears that in the meanwhile, the petitioners instituted Original Application No.365/1999 before the M.P.Administrative Tribunal, Raipur Bench (for short the Tribunal) calling in question the validity of the order of the second respondent dated 19.5.1999 cancelling their appointments. At this stage itself, it needs to be noticed that the second respondent after subjecting the petitioners and others to interview and *viva voce* test prescribed under the Regulation, selected and appointed respondents No.3 to 5 herein as Assistant Sub-Inspectors. The selection

and appointment of respondents No.3 to 5 remained unchallenged till date either before the Tribunal or before this Court. If this is the fact situation, we have more than one good and weighty reasons to dismiss this writ petition *in limine* without going into the merits of the matter. Unless the selection and appointments of the respondents No.3 to 5 are successfully challenged and their appointments are set aside, no effective relief could be granted to the petitioners. The second reason is that the petitioners, particularly petitioners No.2 to 4 by their own conduct, are not entitled to any discretionary relief under Article 226 of the Constitution of India at the hands of this Court. We say this, because, after their appointments were terminated by the second respondent by resorting to the powers reserved under the contract appointment as far back as on 19.5.1999, the petitioners, without protest and demur, in response to the fresh advertisement issued by the second respondent calling for applications for appointment to the post of Stenographer and Assistant Sub-Inspector, applied for the posts, participated in the selection process, appeared for *viva voce* and interview test and since they are not selected and appointed to the post to which they have applied, now they cannot be permitted to make any grievance. Thirdly, the validity of the selection and appointment of the respondents No.3 to 5 cannot be gone into by this Court under Article 226 of Constitution of India in the first instance, in view of the judgment of Apex Court in **L.Chandra Kumar v. Union of India and Others**[1]. If the selection and appointment of the respondents No.3 to 5 are irregular and illegal on any permissible ground, the petitioners should work out their legal remedies, in the first instance, by instituting Original

---

1. **(1994) 5 SCC 539**

112

Application before the Tribunal, and they cannot straightaway assail the same either directly or indirectly before this Court. Above all, the selection and appointment of the respondents No.3 to 5 are not assailed in the present writ petition.

2. For these reasons, we should say that the writ petition filed before this Court is totally misconceived and not maintainable.

3. Writ petition, is therefore, dismissed. No costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani